

### **REMARKS**

This paper responds to the Office Action mailed on June 1, 2007.

Claims 2-4, and 8 are amended, claims 9-50 are canceled, and claims 72-78 are added; as a result, claims 1-6 and 8 and newly added dependent claims 72-79 are now pending in this application.

#### **§112 Rejection of the Claims**

Claim 2 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the term “a polysilicon sacrificial second film” was stated to render the metes and bounds of the claims unclear as not being clear whether it is the same film as the second dielectric layer. Applicant has amended the claim to address the rejection, and requests that this rejection be withdrawn in view of the claim amendment.

#### **§102 Rejection of the Claims**

Claims 46-50 were rejected under 35 U.S.C. § 102(b) for anticipation by Lee et al. (KR Publication 2001-037699). Applicant notes that claims 46-50 are cancelled herein and respectfully request this rejection be withdrawn.

#### **§103 Rejection of the Claims**

Claims 4-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee et al. (KR Publication 2001-037699) in view of Choi (U.S. 6,080,594) and O'Brien (U.S. 5,817,182). Applicant notes that claims 4 and 5 depend from allowable claim 1 and contain further limitations over the allowable base claim. Applicant requests this rejection be withdrawn.

Claims 6 and 8-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee et al. in view of Choi, O'Brien and Kang et al. (U.S. Publication 2004/0175884). Applicant respectfully notes that claims 9-21 are cancelled herein and claims 6 and 8 depend from allowable claim 1. Applicant respectfully requests this rejection be withdrawn.

Claims 40-45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee et al. in view of Jost et al. (U.S. 5,966,611) and Sell (U.S. Publication 2004/0147074). Applicant respectfully notes that claims 40-45 are cancelled without prejudice or waiver of patentable subject matter contained therein, and request this rejection be withdrawn.

Claims 22-39 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Chan et al. (U.S. 6,764,947) in view of O'Brien. Applicant respectfully notes that claims 22-39 are cancelled herein without prejudice or waiver of patentable subject matter contained therein. Applicant respectfully requests this rejection be withdrawn.

Applicant respectfully submits that newly added claims 72-79 depend from allowable claim 1 and recite further patentable features over the base claim. No new matter has been added and the recited features may be found in the specification and the cancelled claims as originally filed. Applicant respectfully requests claims 2, 4-6, 8 and 72-79 be allowed.

#### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all

rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney David Suhl at (508) 865-8211, or the undersigned attorney at (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

KEVIN TOREK ET AL.

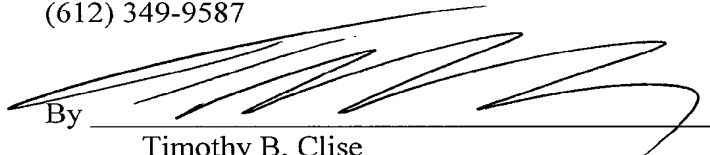
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Date

15 Feb '08

By



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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 15th day of February 2008.

Name

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Signature

